

1 PAUL J. PASCUZZI, State Bar No. 148810
JASON E. RIOS, State Bar No. 190086
2 THOMAS R. PHINNEY, State Bar No. 159435
FELDERSTEIN FITZGERALD
3 WILLOUGHBY PASCUZZI & RIOS LLP
500 Capitol Mall, Suite 2250
4 Sacramento, CA 95814
Telephone: (916) 329-7400
5 Facsimile: (916) 329-7435
Email: ppascuzzi@ffwplaw.com
6 jrios@ffwplaw.com
tphinney@ffwplaw.com

7
8 ORI KATZ, State Bar No. 209561
ALAN H. MARTIN, State Bar No. 132301
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
9 A Limited Liability Partnership
Including Professional Corporations
10 Four Embarcadero Center, 17th Floor
San Francisco, California 94111-4109
11 Telephone: (415) 434-9100
Facsimile: (415) 434-3947
12 Email: okatz@sheppardmullin.com
amartin@sheppardmullin.com

13
14 Attorneys for The Roman Catholic Archbishop of
San Francisco

15 UNITED STATES BANKRUPTCY COURT
16
17 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

18 In re
19 THE ROMAN CATHOLIC ARCHBISHOP
OF SAN FRANCISCO,
20
21 Debtor and
Debtor in Possession.

Case No. 23-30564

Chapter 11

**FIRST INTERIM APPLICATION OF
WEINSTEIN & NUMBERS, LLP FOR
ALLOWANCE OF FEES AND
REIMBURSEMENT OF EXPENSES AS
SPECIAL INSURANCE COUNSEL FOR
THE DEBTOR IN POSSESSION**

Date: April 4, 2024
Time: 1:30 p.m.
Location: Via ZoomGov
Judge: Hon. Dennis Montali

22
23
24
25
26
27 Weinstein & Numbers, LLP (hereinafter "W&N"), special insurance counsel for The
28 Roman Catholic Archbishop of San Francisco, the debtor and debtor in possession (the "RCASF")

1 or the "Debtor"), submits this application (the "Application") for first interim allowance of fees
2 and reimbursement of expenses for the period of August 21, 2023 (the "Petition Date"), through
3 and including January 31, 2024 (the "Application Period") as set forth in the Request for Relief
4 below. In support of this Application, W&N relies on this Application, the Declaration of Barron
5 L. Weinstein ("Weinstein Decl.") filed in support of this Application, the Declaration of Fr. Patrick
6 Summerhays ("Summerhays Decl.") in Support of this Application and the pleadings and papers
7 on file in this case, and on such other evidence and argument as may be submitted before or during
8 the hearing on this Application.

9 **I.**

10 **RELIEF REQUESTED**

11 Through this Application, W&N requests an Order:

- 12 1. Approving on an interim basis W&N's fees in the amount of \$95,475.50 and
13 reimbursement of expenses in the amount of \$64.07 for a total of \$95,539.57 incurred from the
14 Petition Date through January 31, 2024.
- 15 2. Authorizing payment to W&N by the Debtor of the unpaid balance of the allowed
16 fees and expenses after application of any retainer; and
- 17 3. For such other relief as the Court deems just and proper.

18 **II.**

19 **BACKGROUND FACTS**

20 On August 21, 2023, the Debtor filed a voluntary Chapter 11 Bankruptcy Petition ("Petition
21 Date"). The Debtor remains in possession of its estate, no trustee having been appointed. The
22 Debtor is operating and managing its business as a debtor in possession pursuant to the provisions
23 of Sections 1107 and 1108 of the Bankruptcy Code. On September 1, 2023, the Office of the
24 United States Trustee appointed an Official Committee of Unsecured Creditors (the "OCC") (ECF
25 58).

26 A description of the Debtor's history, business operations, operational structure, the
27 reasons for commencing the Chapter 11 Case, the relief sought from the Court, and the facts and
28 circumstances supporting this Application are set forth in the *Declaration of Joseph J. Passarello*

1 *in support of Chapter 11 Petition and First Day Motions* filed on August 21, 2023, at ECF 14
2 (*“Passarello Background Decl.”*), and the *Declaration of Paul E. Gaspari in Support of Chapter*
3 *11 Petition and First Day Motions* filed on August 21, 2023 at ECF 15 (*“Gaspari Decl.”*).

4 On September 25, 2023, the Court entered its order granting the Debtor’s application to
5 employ W&N as special insurance counsel, effective as of August 21, 2023 (ECF 166). W&N is
6 skilled in complex insurance disputes, including insurance coverage disputes and litigation against
7 insurance carriers and brokers in state and federal courts. W&N was originally engaged in 2019
8 for insurance issues related to the current abuse claims litigation and has been working with the
9 RCASF regarding its insurance coverage for abuse claims since 2004. W&N, through its partner
10 Barron L. Weinstein, assisted RCASF in negotiating settlements of all the claims with funds that
11 included funds from RCASF’s insurance carriers. The current lawsuits arise from another
12 legislatively created window in which the statute of limitations was tolled for three years from 2019
13 through 2022. The current claims span the same time periods as involved in the 2004 claims and
14 involve the same insurance carriers. Accordingly, W&N has had extensive experience negotiating
15 settlements of abuse claims with the same carriers as are involved with the present claims. As a
16 result of its prepetition representation of the RCASF, W&N has acquired in-depth knowledge of
17 the Debtor’s insurance coverage, which will be a key issue in the Bankruptcy Case.

18 III.

19 STATUS OF CASE

20 To avoid unnecessary duplication, the case status is set forth in the First Interim Application
21 of Felderstein Fitzgerald Willoughby Pascuzzi & Rios LLP for Allowance of Fees and
22 Reimbursement of Expenses as Counsel for Debtor in Possession and incorporated herein by this
23 reference.

24 IV.

25 SERVICES RENDERED

26 The services performed by W&N in this case have been categorized into task billing
27 categories. Detailed billing statements reflecting W&N’s time records and out of pocket expenses,
28 including a summary of the aggregate and itemized hours and total compensation requested with

respect to the professionals who provided compensable services are attached to the Weinstein Decl. as Exhibit A. The billing statements are organized by task, and the content of the billings included in each task is generally explained in Paragraph 5 of the Weinstein Decl. and below.

A listing of the billing task categories showing the number of professional hours expended and fees incurred under each billing task category is shown below:

CATEGORY	HOURS	FEES
Asset Analysis and Recovery	3.80	\$1,615.00
Discovery	8.80	\$4,700.00
Employment Applications	7.60	\$3,297.50
Fee Applications	1.90	\$399.00
Litigation	246.30	\$71,170.00
Mediation	3.20	\$2,000.00
Motion Practice	17.50	10,813.00
Preparation of Materials for Parties in Bankruptcy Proceedings	4.80	\$1,481.00
Totals	293.90	\$95,475.50

Below is a general description of the work performed in each task category.

A. Asset Analysis and Recovery. Based on W&N's use of task billing codes and its review of the billing statements before the Court, W&N has spent approximately 3.80 hours in the Asset Analysis and Recovery (Insurance Proceeds) category for a total charge of \$1,615.00, which includes continued efforts to locate archival insurance documents and evaluate the potential coverage.

A breakdown of the professionals who billed time to Asset Analysis and Recovery and the number of hours billed by each is as follows:

Professional	Hourly Rate	Hours Billed	Total
Kevin Cifarelli	\$425	3.80	\$1,615.00
Totals		3.80	\$1,615.00

B. Discovery. Based on W&N's use of task billing codes and its review of the billing statements before the Court, W&N has spent approximately 8.80 hours in the Discovery category

for a total charge of \$4,700.00, which includes analysis and communications regarding Committee production request, including extensive document review and organization; preparation of tender letter to carriers, and analysis and preparation of responses; production of shared link for policy documents.

A breakdown of the professionals who billed time to Discovery and the number of hours billed by each is as follows:

Professional	Hourly Rate	Hours Billed	Total
Barron Weinstein	\$625	4.80	\$3,000.00
Kevin Cifarelli	\$425	4.00	\$1,700.00
Totals		8.80	\$4,700.00

C. Employment Applications. Based on W&N's use of task billing codes and its review of the billing statements before the Court, W&N has spent approximately 7.60 hours in the Employment Application category for a total charge of \$3,297.50. The services performed in this category generally include but are not limited to review and prepare correspondence regarding application for employment, finalize application and declaration, telephone conference with counsel regarding employment application.

A breakdown of the professionals who billed time to Fee/Employment Applications with Creditors and the number of hours billed by each is as follows:

Professional	Hourly Rate	Hours Billed	Total
Barron Weinstein	\$625	4.10	\$2,562.50
Chuck Yeo	\$210	3.50	\$735.00
Totals		7.60	\$3,297.50

D. Fee Applications. Based on W&N's use of task billing codes and its review of the billing statements before the Court, W&N has spent approximately 1.90 hours in the Fee Application category for a total charge of \$399.00. The services performed in this category generally include but are not limited to reviewing correspondence from Mr. Pascuzzi regarding request for billing, payment, retainer balance details, prepare spreadsheet regarding same, review monthly fee notice and confirm billing details and breakdown for billing entries.

Professional	Hourly Rate	Hours Billed	Total
Chuck Yeo	\$210	1.90	\$399.00
Totals		1.90	\$399.00

E. Litigation (Analysis of Coordinated Abuse Claims for Available Insurance Coverage): Based on W&N's use of task billing codes and its review of the billing statements before the Court, W&N has spent approximately 246.30 hours in the Litigation category for a total charge of \$71,170.00. As explained above, these services include but not limited to the review of each abuse claim to determine which insurance policies might apply, preparation of correspondence tendering each claim to each carrier with potential coverage, maintaining charts of all tenders and responses, maintaining charts of identifying information for each abuse claim as necessary to pursue coverage, conferencing with insurance adjusters and coverage counsel to address questions and requests for information, and collaborating with defense and bankruptcy counsel to coordinate the insurance coverage issues with ongoing defense and bankruptcy issues.

Professional	Hourly Rate	Hours Billed	Total
Kevin Cifarelli	\$425	22.60	\$9,605.00
Adison Marshall	\$350	19.00	\$6,650.00
Barron Weinstein	\$625	8.40	\$5,250.00
Brian Carolus	\$210	112.40	\$23,604.00
Robert Patterson	\$315	80.40	\$25,326.00
Chuck Yeo	\$210	3.50	\$735.00
Totals		246.30	\$71,170.00

F. Mediation. Based on W&N's use of task billing codes and its review of the billing statements before the Court, W&N has spent approximately 3.20 hours in the Mediation category for a total charge of \$2,000.00, which includes but not limited to review of correspondence regarding mediation strategy, prepare correspondence regarding mediation, attend Zoom meeting regarding issues of mediation and overall strategy with counsel and client, numerous telephone conferences regarding mediation.

Professional	Hourly Rate	Hours Billed	Total
Barron Weinstein	\$625	3.20	\$2,000.00
Totals		3.20	\$2,000.00

G. Motion Practice. Based on W&N's use of task billing codes and its review of the billing statements before the Court, W&N has spent approximately 17.50 hours in the Motion Practice category for a total charge of \$10,813.00, which includes but not limited to attending Zoom meetings with counsel and client to discuss hearing on pending motions, review pleadings and file notes to prepare for hearings, attend hearings via Zoom, review pleadings regarding state court coverage action, telephone conference with counsel regarding same.

Professional	Hourly Rate	Hours Billed	Total
Barron Weinstein	\$625	17.20	\$10,750.00
Chuck Yeo	\$210	.30	\$63.00
Totals		17.50	\$10,813.00

H. Preparation of Materials for Parties in Bankruptcy Proceedings. Based on W&N's use of task billing codes and its review of the billing statements before the Court, W&N has spent approximately 4.80 hours in the Preparation of Materials for Parties in Bankruptcy Proceedings category for a total charge of \$1,481.00, which includes but not limited to review of correspondence from bankruptcy counsel regarding requests from Committee and prepare response, analysis of policies and secondary evidence for production to bankruptcy counsel, review of complaint, evaluate coverage and prepare tender letter to carrier, conferencing with Committee counsel and preparing information for them regarding the Debtor's coverage.

Professional	Hourly Rate	Hours Billed	Total
Kevin Cifarelli	\$425	4.80	\$1,481.00
Totals		4.80	\$1,481.00

V.

RESPONSIBLE PERSONNEL

The professionals assigned to this chapter 11 case who performed more than five (5) hours of service are as follows:

1 Barron L. Weinstein (BLW) is the partner charged with the overall responsibility for this
2 case. Mr. Weinstein's billing rate during the period covered by this Application was \$625 per hour.
3 Mr. Weinstein obtained his J.D. degree in 1975 from The University of California, Hastings College
4 of the Law. He is a fellow in the American College of Coverage Counsel. He also has been rated
5 "AV Preeminent" by Martindale-Hubbell for 35 years and has been selected for inclusion in the
6 Northern California Super Lawyers list in the field of insurance coverage each year since 2010. In
7 2016, he was selected for the 2016 Super Lawyers' list of Top 100 Lawyers in Northern California
8 for all areas of practice. Other attorneys and paralegals, also specializing in complex insurance
9 coverage disputes, are identified in W&N's employment application at ECF. No. 98.

10 Kevin L. Cifarelli (KLC) is an associate assisting Mr. Weinstein in performing all of the
11 above-described services related to claims for coverage under the Debtor's insurance programs.
12 Mr. Cifarelli was formerly a litigation partner at the San Francisco firm Hinshaw & Culbertson
13 retained by various insurance carriers to defend malpractice and other tort cases. Mr. Cifarelli's
14 billing rate during the period covered by this Application was \$425 per hour. Mr. Cifarelli obtained
15 his J.D. degree in 1997 from Golden Gate University School of Law.

16 Adison B. Marshall (ABM) is an associate assisting Mr. Weinstein in reviewing, organizing
17 and charting voluminous documentation regarding the claims against the Debtor and the Debtor's
18 insurance policies and correspondence. Ms. Marshall's billing rate during the period covered by
19 this Application was \$350 per hour. Ms. Marshall obtained her J.D. degree in 2021 from The
20 George Washington University School of Law.

21 Robert Patterson (RP) is a Certified Paralegal assisting Mr. Weinstein in reviewing,
22 organizing and charting voluminous documentation regarding the claims against the Debtor and
23 the Debtor's insurance policies and correspondence. Mr. Patterson's billing rate during the period
24 covered by this Application was \$315 per hour. He obtained his Paralegal Certification from the
25 National Association of Legal Assistants in 2002.

26 Brian S. Carolus (BSC) is a Certified Paralegal assisting Mr. Weinstein in reviewing,
27 organizing and charting voluminous documentation regarding the claims against the Debtor and
28 the Debtor's insurance policies and correspondence. Mr. Carolus' billing rate during the period

covered by this application was \$210 per hour. He obtained his Paralegal Certification at University of California, Los Angeles' Paralegal Training Program in 2015.

Charles D. Yeo (CDY) is a Legal Assistant assisting Mr. Weinstein in reviewing, organizing and charting voluminous documentation regarding the claims against the Debtor and the Debtor's insurance policies and correspondence. Mr. Yeo's billing rate during the period covered by this Application was \$210 per hour. Mr. Yeo has over 14 years' experience in complex insurance coverage litigation.

VI.

SUMMARY OF FEES AND EXPENSES

A detailed billing statement reflecting W&N's time records and out of pocket expenses filed as Exhibit A to the Weinstein Decl. in support of this Application reflects total fees in the amount of \$95,475.50 and expenses in the amount of \$64.07 for a total of \$95,539.57, incurred during the Application Period.

Professional	Hourly Rate	Hours Billed	Total
Kevin Cifarelli	\$425	32.60	\$13,855.00
Adison Marshall	\$350	19.00	\$6,650.00
Barron Weinstein	\$625	37.70	\$23,562.50
Brian Carolus	\$210	112.40	\$23,604.00
Robert Patterson	\$315	80.40	\$25,326.00
Chuck Yeo	\$210	11.80	\$2,478.00
Totals		293.90	\$95,475.50

W&N has calculated a blended hourly rate of \$324.86 by dividing the total fees billed by the total number of hours recorded.

The expenses incurred during the period covered by this Application are as follows:

Category	Total
Court Fee	\$48.57
Document Management	\$15.50
Total Expenses	\$64.07

1 W&N requests an order under Bankruptcy Code section 330 approving fees in this case of
2 \$95,475.50 and expenses in the amount of \$64.07 for a total of \$95,539.57 for the period of August
3 21, 2023, through and including January 31, 2024, as reasonable and necessary for the
4 administration of this case.

5 VII.

6 FACTORS TO CONSIDER

7 The order approving W&N's employment authorizes compensation on a basis that would
8 allow payment for services rendered on an hourly rate consistent with the Ninth Circuit decision in
9 *In re Manoa Fin. Co.*, 853 F.2d 687 (9th Cir. 1988), after notice to all interested parties. Consistent
10 with the *Manoa* Decision, various factors were suggested by the Court in *Johnson v. Georgia*
11 *Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), for consideration in awarding compensation
12 in a bankruptcy case. Though not specifically required for approval under the lodestar or *Manoa*
13 case, several of the *Johnson* factors have been specifically codified by the Bankruptcy Reform Act
14 of 1994 and as such, these factors are discussed below:

15 (a) **Time and labor required (11 U.S.C. § 330(a)(3)(A)):** W&N has utilized
16 three (3) attorneys and three (3) legal assistants who have expended 293.90 in billable hours during
17 the Application period. The blended hourly rate based on the billed hours is \$324.86. This is a
18 very reasonable rate for a case as complex and difficult as the present Case.

19 Of note is the fees incurred by Committee insurance counsel in the Roman Catholic Bishop
20 of Oakland case. In this case, Committee special insurance counsel Burns & Bair have According
21 to the First Interim Fee Application of Burns & Bair as Committee Special Insurance Counsel in
22 the Oakland case (23-40523 at ECF 864), fees for the period July 14 through December 31, 2023,
23 totaled \$438,446.20, with a billable hours total of 593.4, and a blended hourly rate of \$738.87.
24 While the Debtor submits the Oakland case may present different issues, these date points are
25 relevant to the applications to approve professional fees in this matter.

26 (b) **Novelty and difficulty of the questions (11 U.S.C. § 330(a)(3)(D)):** This
27 case involves many of the technical and complex problems faced by operating chapter 11 debtors
28 in possession with operating businesses. This case, however, is unique in that it involves a non-

1 profit religious institution with unique and complex issues. W&N is particularly suited to handle
2 this case because of its prior experience with the Debtor and its prior experience in the Roman
3 Catholic Bishop of Stockton chapter 11 case.

4 **(c) Skill requisite to perform the services properly (11 U.S.C.**
5 **§ 330(a)(3)(D)):** W&N is skilled in handling complex insurance issues involving abuse litigation
6 and claims and has special experience and knowledge which enables W&N to render services of
7 benefit to the estate in an efficient manner. The attorneys who have contributed to this case have
8 many years of combined experience in similarly complicated cases.

9 **(d) Customary fees (11 U.S.C. §§ 330(a)(3)(B and E)):** The rates charged by
10 W&N are W&N's standard billing rates (attorneys \$325-\$625 per hour), which standard rates are
11 the same rates (with a few exceptions for long term clients or specially negotiated limited
12 engagement agreements) as generally used by W&N with respect to its non-debtor/trustee clients.
13 The rates also are similar to the normal charges for similar work performed by similarly experienced
14 and skilled attorneys and legal assistants in the Northern District of California bankruptcy courts,
15 and based on information and belief are below rates in the Northern District of California
16 bankruptcy courts. W&N requests that the Court take judicial notice of the rates generally charged
17 and approved in fee applications before this Court and other cases in the Northern District of
18 California.

19 As further evidence of the reasonableness of W&N's hourly rates, Committee special
20 insurance counsel Burns & Bair's hourly rates for this matter are: \$340 for paralegals, \$550 for
21 associates, and \$900-\$1,120 for partners. See also the hourly rates in the Roman Catholic Bishop
22 of Oakland case noted in (a) above.

23 **(e) Amount of work involved and result obtained (11 U.S.C. § 330(a)(3)(D)):**
24 As stated above, W&N has expended 293.90 of billable hours on behalf of the Debtor during the
25 Application Period performing the services described herein.

26 **(f) Experience, reputation, and ability of W&N:** W&N has many years'
27 experience handling insurance issues and cases. W&N also enjoys a reputation for quality work
28 and integrity in the legal community and before this Court. Barron L. Weinstein in particular has

1 significant experience in the Roman Catholic Bishop of Stockton chapter 11 case.

2 (g) **Professional relationship with the client:** Other than as disclosed in its
3 application for approval of employment of W&N, W&N has no relationship with the U.S. Trustee,
4 the Debtor, its officers and directors, or its creditors.

5 (h) **Awards in similar cases (11 U.S.C. § 330(a)(3)(F)):** The compensation
6 sought by this Application is consistent with that authorized in similar cases.

7 In addition to the foregoing *Johnson* factors, section 330 also examines whether the services
8 were:

9 (i) **Necessary to the Administration of the Bankruptcy Case (11 U.S.C.
10 § 330(a)(3)(C)):** W&N respectfully submits that essentially all of W&N's services were necessary
11 to the administration of this Case and in total have benefited the estate. W&N respectfully submits
12 that as a whole its services were necessary and benefited the Estate.

13 VIII.

14 PAYMENTS RECEIVED TO DATE; AVAILABILITY OF FUNDS

15 With respect to the Bankruptcy Rule 2016(a) requirements for attorney fee applications,
16 W&N has not received any payments to date in this case from any source, other than the Debtor.
17 W&N received a retainer prepetition from the Debtor, of which \$136,133.00 remained on the
18 Petition Date.

19 Pursuant to the Order Establishing Procedures and Authorizing Payment of Professional
20 Fees and Expenses on a Monthly Basis (ECF 212), W&N has filed and served fee notices for
21 August-September 2023 (ECF 245), October 2023 (ECF 334) November 2023 (ECF 379),
22 December 2023 (ECF 437), and January 2024 (ECF 481). No objections were received on the
23 August-September, October, November nor December notices, while the time for objections to the
24 January fee notice has not yet expired. Thus, W&N has applied its retainer, such that it has been
25 paid 80% of fees and 100% of costs for the outstanding fees for August through December 31,
26 2023, as of the time this application was filed.

27 With respect to Bankruptcy Rule 2016(b), Weinstein & Numbers, LLP, has not entered into
28 any agreement, express or implied, with any other party-in-interest, including the Debtor, any

creditors, or any representative of them, or with any attorney or accountant for such party-in-interest for the purpose of fixing fees or other compensation to be paid for services rendered or expenses incurred in connection with this case, and no agreement or understanding exists between W&N and any other person for the sharing of the compensation to be received for services rendered in, or in connection with, this case.

IX.

CONCLUSION

Based on all of the above, W&N respectfully requests that this Court enter an order granting the relief requested herein, and for such other and further relief as the Court deems necessary and proper.

Dated: February 29, 2024

WEINSTEIN & NUMBERS, LLP

By: /s/ Barry Weinstein
Barry Weinstein
Attorneys for The Roman
Catholic Archbishop of San Francisco

Dated: February 29, 2024

FELDERSTEIN FITZGERALD WILLOUGHBY
PASCUZZI & RIOS LLP

By: /s/ Paul J. Pascuzzi
PAUL J. PASCUZZI
JASON E. RIOS
THOMAS R. PHINNEY

Attorneys for The Roman Catholic Archbishop of
San Francisco

Dated: February 29, 2024

SHEPPARD, MULLIN, RICHTER & HAMPTON
LLP

By: /s/ Ori Katz
ORI KATZ
ALAN H. MARTIN

Attorneys for The Roman Catholic Archbishop of
San Francisco